

REMARKS

The issues outstanding in the Office Action mailed August 14, 2002, are the rejections under 35 U.S.C. §102, 103 and the doctrine of obviousness-type double patenting. Reconsideration of all these issues, in view of the following discussion, is respectfully requested.

Rejection Under 35 U.S.C. §102

Claims 1-17 have been rejected under 35 U.S.C. §102(f) and claims 1-4, 7-11 and 14-17 have been rejected under 35 U.S.C. §102(e) over Ichinose et al. '268, commonly assigned with the present application. Reconsideration of this rejection is respectfully requested.

It is respectfully submitted that the disclosure of Ichinose does not *anticipate* the present claims. For example, patentees formula II in column 1 of the patent does not teach selection of ring A in the present formula I as phenylene. Thus, at best, it is submitted that the '268 patent arguably is relevant with respect to an obviousness rejection. However, in view of the common ownership of the '268 patent and the present application, it is submitted that such a rejection should not be made. Withdrawal of the rejections in items 2 and 3 at page 2 of the Office Action are therefore respectfully requested.

Rejections Under 35 U.S.C. §103

Claims 5-6 and 13 are rejected under 35 U.S.C. §103 over Ichinose '268. As discussed above, the common ownership of the '268 patent and the present application, at the time the later invention was made, obviates this rejection. Thus, withdrawal of this rejection is also respectfully requested.

Claim 12 has also been rejected under 35 U.S.C. §103 over Ichinose '268, further in view of Heckmeier et al. '953. Reconsideration of this rejection is also respectfully requested. Not only is the '268 patent removed as a reference, as discussed above, but Heckmeier is also commonly owned (and was commonly owned) at the time the invention was made. Thus, this rejection should also not be sustained, as the references are unavailable. Withdrawal thereof is therefore respectfully requested.

Finally, claims 1-11 and 13-17 have been rejected under 35 U.S.C. §102(e) 103 over Yanai et al. '355. Reconsideration of this rejection is also respectfully requested. It is respectfully submitted that Example 9, noted in the Office Action, does not anticipate the present claims. Moreover, the disclosure of the patent does not suggest the presently claimed mixtures in view of the numerous selections which would have to be made in order to arrive at a mixture within the present scope. Thus, withdrawal of this rejection is respectfully requested.

Double Patenting

Claims 1-11 and 13-17 have been rejected as allegedly being directed to an invention not patentably distinct from claims 1-5, 7-12, 14, 16-17 and 19 Ichinose '268. As discussed above, applicants hereby affirm that the applications were commonly owned at the time the present invention was made. Thus, this issue is moot.

Claims 1-4, 7-11 and 14-17 have also been rejected under the doctrine of obviousness-type double patenting over the above claims of Ichinose '268. Reconsideration of this rejection is respectfully requested. Although the claims overlap, arguably, it is submitted that this is insufficient to support an *obviousness*-type double patenting rejection. It is submitted that the claims of the patent must render the present claims obvious, for such a rejection to be supported, see *In re Kaplan*, 229 USPQ 678 (Fed. Cir. 1986). No showing of obviousness has been made and it is submitted that the rejection should therefore be withdrawn.

Should the Examiner have any questions or comments, he is cordially invited to telephone the undersigned at the number indicated below.

Commissioner is hereby authorized to charge any fees associated with this response or credit any overpayment to Deposit Account No. 13-3402.

Respectfully submitted,



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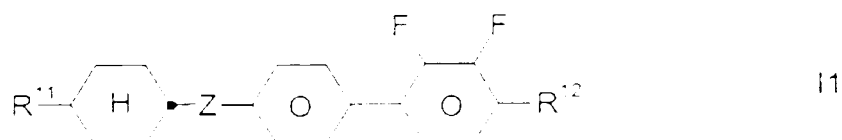
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VERSION WITH MARKINGS TO SHOW CHANGES MADE

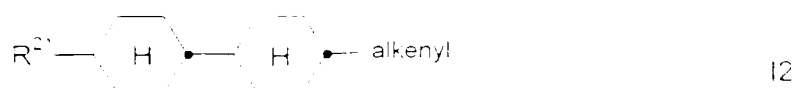
IN THE CLAIMS

Please amend claim 1 as follows:

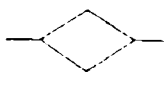
1. (Amended) A liquid-crystalline medium based on a mixture of polar compounds having negative dielectric anisotropy, comprising at least one compound of formula I1



and at least one compound of formula I2



in which

R^{1-} , R^{12} and R^{2-} are each, independently of one another, alkyl or alkenyl having up to 15 carbon atoms which is unsubstituted, monosubstituted by CN or CF_3 or at least monosubstituted by halogen, where one or more CH_2 groups in these radicals may also, in each case independently of one another, be replaced by -O-, -S-, , - $C\equiv C$ -, -CO-, -CO-O-, O-CO- or -O-CO-O- in such a way that O atoms are not linked directly to one another,

Z is - C_2H_4 -, -CH=CH-, - CF_2O -, -OCF₂- or a single bond, and

alkenyl is straight-chain alkenyl having 2-6 carbon atoms,